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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/699,339 | 11/03/2003 | Stephen J. Seely | OCI 728 | 2510 |

44088 7590 08/31/2006

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EXAMINER

VANTERPOOL, LESTER L

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/699,339

Applicant(s)

SEELY ET AL.

Examiner

Lester L. Vanterpool

Art Unit

3727

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-8.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

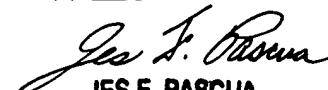
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


JES F. PASCUA
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The original drawings filed on November 03, 2006 were objected under 37 CFR 1.83(a). The drawing must show every feature of the invention specified in the claims. Any structural detail that is essential for the proper understanding of the disclosed invention should be shown in the drawings according to MPEP 608.02(d). Corrected drawings in compliance with 37 CFR 1.121(d) were required in this application because applicant submitted incorrect drawings with application case number 10/699339. However, the "Replacement Sheet" of drawings filed on March 16, 2006 were objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: 1. The Replacement Sheet drawings disclose the "flange" reference character #34 having a specific shape of having five (5) sides (See Figure 3). The specification on pages 4 & 5 do not recite "the flange" having five (5) sides. 2. The Replacement Sheet drawings disclose the head of the "bolt" reference character #38 having the hexagonal shape (See Figure 3). The specification on page 4 does not recite "the bolt" with the hexagon shape head. 3. The Replacement Sheet drawings disclose the "first portion" reference character #24 having the rectangular tubular cross-section (See Figure 3). The specification on page 4 does not recite "the first portion" having the rectangular tubular cross-section. 4. The Replacement Sheet drawings disclose the "pole" reference character #18 having the rectangular tubular cross-section. The specification on pages 4 & 5 do not recite "the pole" having the rectangular tubular cross-section. 5. The Replacement Sheet drawings disclose the "rigid panel" reference character #54 having a large square configuration (See Figure 2). The specification on page 5 does not recite the square shape. Furthermore, the specification on page 5 does not disclose the size of "rigid panel" in relation to the other components of the invention. 6. The Replacement Sheet drawings disclose the "pole" reference character #18 and the "guard" reference character #50 having the plurality of apertures on the surface of at least one side to suggest having telescoping means and adjustability means (See Figures 1 & 4). The specification on page 5, line 20 - 22 do recite "the pole" nor "the guard" having apertures along the side of "the pole" or "the guard" for telescoping means or adjustability means. 7. The Replacement Sheet drawings disclose the "locking means" with no reference character identification number assigned (See Figure 2). The specification pages 4 & 5 do not recite "the pole" and "the guard" have locking means. Therefore, due to the enclosed observations in the Replacement Sheet drawings filed on March 16, 2006, the Replacement Sheet drawings is object to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure and 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. Therefore, the Replacement Sheet drawings filed on March 16, 2006 were not entered. Applicant is required to cancel the new matter in the reply to this Office action. In addition, the specification on page 4, lines 26 - 31 and page 5, lines 1 - 2 recites the first and second section with reference character #24 & #26. However, specification page 4, line 19 recites first portion with reference character #24 and the second portion with reference character #26. Appropriate correction is required.

Replacement Sheet

* REPLACEMENT SHEET DRAWINGS DISAPPROVED
 * REPLACEMENT SHEET DRAWINGS NOT ENTERED
 ON JUNE 20, 2006. *L.V.*

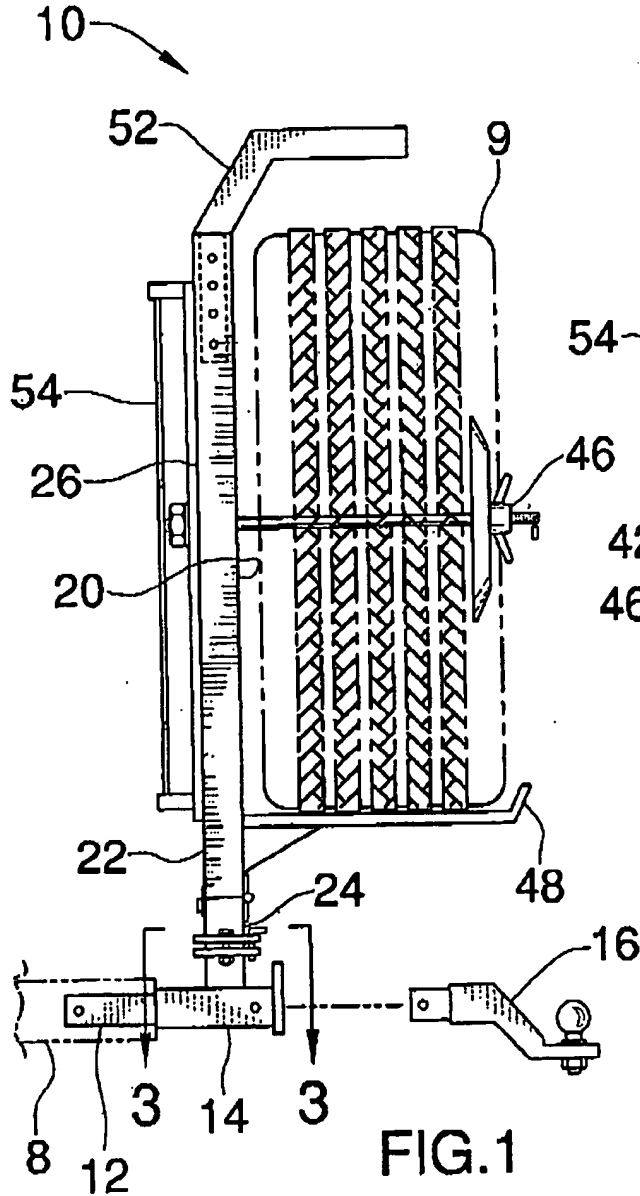


FIG. 1

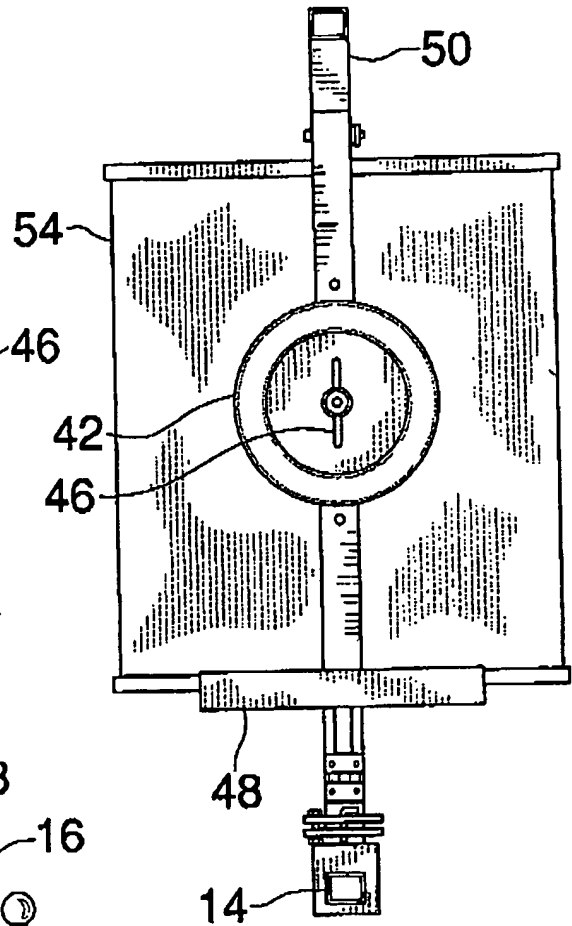


FIG. 2